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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/826,452      | 04/04/2001  | Raleigh J. Jensen    | ACE106.02           | 8028             |

7590 08/20/2002  
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EXAMINER

DEXTER, CLARK F

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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3724

DATE MAILED: 08/20/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

S.M.

**Office Action Summary**Application No.  
**09/826,452**Applicant(s)  
**Jensen**Examiner  
**Clark F. Dexter**Art Unit  
**3724**

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on Jun 10, 2002
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 6) ☐ Other:

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### **DETAILED ACTION**

1. The amendment filed June 10, 2002 has been entered. It is noted that in view of the new amendment practice under 37 CFR 1.121 which became mandatory for all amendments on March 1, 2001, and due to the limited amount of examining time per application, if the amendment contains changes to existing language that requires a marked-up version showing those changes, the Examiner is relying upon the marked-up version(s) for examination of the application. It is applicant's responsibility to ensure that the clean version(s) is (are) the same as the marked-up version(s). It is further noted that the clean version(s) is (are) considered to be the Official version(s).

### ***Claim Rejections - 35 USC § 112***

2. Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, lines 7-8, <sup>✓</sup>the recitation “the second set of returns the cutting member” is awkwardly worded and unclear as to what is being set forth, and it seems that a comma --,-- should be reinserted after “returns” (it is noted that the marked-up version of the amendment does not show the deletion of the comma which was present in the previous version of the claim).

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In claim 8, line 15, the recitation is unclear as to what is being set forth, and it seems that the comma --,-- should be reinserted after "aperture" for clarity.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2 and 4-7 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Hecker, pn 1,695,761.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hecker, pn 1,695,761, in view of Stuart, pn 1,868,401.

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Hecker lacks each set of returns having a height substantially equal to a width of the cutting member. Stuart discloses a cutting assembly with such a cutting member support configuration for providing a desired cutting operation; for example, the cutting support configuration of Stuart provides for the cutting members to be disposed substantially in the same plane across the aperture. Therefore, it would have been obvious to one having ordinary skill in the art to provide the cutting member support configuration of Stuart for the obvious benefits including that described above.

7. Claims 8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hecker, pn 1,695,761.

Hecker discloses a cutting head assembly with almost every structural limitation of the claimed invention including a first head member (e.g., 3), but does not disclose a second head member. However, the Examiner takes Official notice that such configurations are old and well known in the art for various known benefits including support structure for a second handle to facilitate manipulation of the assembly. Therefore, it would have been obvious to one having ordinary skill in the art to provide a second head member on the cutting assembly of Hecker for the well known benefits including that described above.

8. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hecker, pn 1,695,761 as applied to claim 8 above, and further in view of Stuart, pn 1,868,401.

Hecker lacks each set of returns having a height substantially equal to a width of the cutting member. Stuart discloses a cutting assembly with such a cutting member support

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configuration for providing a desired cutting operation; for example, the cutting support configuration of Stuart provides for the cutting members to be disposed substantially in the same plane across the aperture. Therefore, it would have been obvious to one having ordinary skill in the art to provide the cutting member support configuration of Stuart for the obvious benefits including that described above.

9. Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Popeil, pn 3,112,781 (hereafter Popeil '781), in view of Boos, pn 690,512.

Popeil '781 discloses cutting assembly with almost every structural limitation of the claimed invention including a serpentine blade (e.g., 50), and first and second opposing sets of returns (e.g., 48), but lacks the first and second set of returns being adjustable relative to one another, and further lacks a cutting member tensioning device, specifically a tensioning device which comprises a screw. Boos discloses a cutting assembly with a blade securing structure wherein the blade includes a bend which is removably engaged with a first return (e.g., 10) and a second return (e.g., 12) that adjustably oppose one another, and a tensioning device in the form of a screw (e.g., 13). It is old and well known in the art to provide such securing structure for various known reasons including to secure a blade into a mounted/assembled position and to make assembly of the blade onto the device easier by enabling the blade to be positioned, and then tightened into position for use thereof. Evidence of such assembly/disassembly operation is explicitly taught by Boos (see page 2, lines 10-12). Therefore, it would have been obvious to one having ordinary skill in the art to provide the movable return and the screw of Boos for each of

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the returns on one side or both sides of the cutter assembly of Popeil '781 for the reasons known in the art and as taught by Boos including those described above.

***Response to Arguments***

10. Applicant's arguments filed June 10, 2002 have been fully considered but they are not persuasive.

Regarding applicant's arguments in the fourth paragraph on page 4 of the amendment (labeled as paragraph 1), claim 1 has not been significantly amended, and no additional structure has been set forth. Therefore, it is believed that the prior art rejection applied thereto must be sustained.

Regarding applicant's arguments in the second, third and fifth paragraphs on page 6 of the amendment, applicant argues that Boos does not teach a first return adjustably attached to and opposing a second return. The Examiner respectfully disagrees. The returns in Boos include features 12 and 10, for example, which support the cutting member, and these features are clearly adjustably attached to one another (e.g., via the frame 7) and oppose one another. Further, screw 13 contributes to make the disclosed attachment adjustable, and such adjustment clearly adjusts a distance between the first and second return.

Regarding applicant's arguments in the fourth paragraph on page 6 of the amendment, the Examiner respectfully disagrees with applicant's analysis. For example, the screw 13 of Boos has a longitudinal axis which is oriented in a plane which is substantially parallel to a

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longitudinal axis of the leg of the cutting member, for example, the longitudinal axis of the small portion of the leg which is wrapped around member 12.

Regarding applicant's arguments at the top of page 3 of the amendment (labeled as paragraph 3), the Examiner respectfully disagrees with applicant's analysis and maintains the position that the modification would have been obvious to one having ordinary skill in the art to gain at least the described benefits; for example, one having ordinary skill in the art may choose to modify the structure if cutting member maintenance/replacement considerations override the benefits of prestressing.

Regarding applicant's argument at the bottom of page 4 of the amendment (labeled as paragraph 4), applicant argued against the passage found on page 2, lines 8-12 of Boos, but quoted the passage found on page 1, lines 8-12, not page 2 of Boos. The Examiner pointed to the passage found on page 2, lines 8-12 of Boos for at least partial support.

### ***Conclusion***

11. Applicant's amendment, particularly to claim 8, necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**



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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clark Dexter whose telephone number is (703) 308-1404. The examiner's typical work schedule is Monday, Tuesday, Thursday and Friday, and he can be reached during normal business hours on these days.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Allan Shoap, can be reached at (703)308-1082.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703)308-1148. The fax numbers for this group are: formal papers - (703)305-3579; informal/draft papers - (703)305-9835.



**Clark F. Dexter**  
**Primary Examiner**  
**Art Unit 3724**

cfd  
August 19, 2002